

STATE OF INDIANA )  
 ) SS:  
COUNTY OF SULLIVAN )

IN THE SULLIVAN CIRCUIT COURT  
2004 TERM  
CAUSE NO. 77C01-0409-CT-00324

CHARLES PHIFER, )  
Plaintiff )  
 )  
VS )  
 )  
RODNEY CUMMINGS )  
Defendant )

FILED  
CLERK OF COURT  
OCT - 6 2004

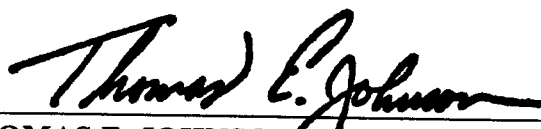
**ORDER**

Pursuant to I.C. 34-58-1-1, this Court has examined Plaintiff's Complaint and has determined, pursuant to I.C. 34-58-1-2, that the claim is frivolous in that it does not have an arguable basis in the law and does not state a claim upon which relief may be granted.

Upon conducting the screening process, the Court finds this cause of action cannot proceed. The Plaintiff's MOTION TO PROCEED IN FORMA PAUPERIS and PLAINTIFF'S REQUEST FOR APPOINTMENT OF ATTORNEY AND PLAINTIFF TO REMAIN AS CO-COUNSEL are denied.

The Court further finds that this is the second determination pursuant to I.C. 34-58-1-2. Plaintiff is advised that in accordance with I.C. 34-58-2-1, if an offender files three (3) civil actions that are dismissed by a state court pursuant to I.C. 34-58-1-2, the offender may not file a new complaint or petition unless a Court determines that the offender is in immediate danger of serious bodily injury.

**SO ORDERED** this 6<sup>th</sup> day of October, 2004.

  
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THOMAS E. JOHNSON, Special Judge  
Sullivan Circuit Court

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